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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,001	07/05/2001	Mark J. McArdle	002114.P021	5140
28875	7590	10/17/2005	EXAMINER	
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			MOORTHY, ARAVIND K	
			ART UNIT	PAPER NUMBER
			2131	

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/900,001	<b>Applicant(s)</b> MCARDLE ET AL.	
	<b>Examiner</b> Aravind K. Moorthy	<b>Art Unit</b> 2131	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-14,16-26 and 28-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-14,16-26 and 28-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This is in response to the amendment filed on 4 August 2005.
2. Claims 1, 2, 4-14, 16-26 and 28-42 are pending in the application.
3. Claims 1, 2, 4-14, 16-26 and 28-42 have been rejected.
4. Claims 3, 15 and 27 have been cancelled.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 2, 4-14, 16-26 and 28-39 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

6. Claim 13 is objected to because of the following informalities: grammatical error. In the preamble of the claim, an extra "a" was added. The extra "a" needs to be removed. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**7. Claims 1, 2, 4-14, 16-26 and 28-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Annicchiarico et al U.S. Patent No. 6,247,148 B1.**

As to claim 1, Annicchiarico et al discloses a computerized method to prevent identification of an operating system executing on a computer connected to a network comprising:

intercepting a portion of outgoing network data characteristic of the operating system [column 3, lines 40-46]; and

masking the portion of outgoing network data to impersonate a different operating system in accordance with a security policy if the network is an untrusted network [column 4, lines 20-52];

wherein the masking the portion comprises:

replacing the portion of outgoing network data with data characteristic of the different operating system [column 4, lines 20-52].

As to claims 2, 14 and 26, Annicchiarico discloses discarding the portion of outgoing network data [column 4 line 53 to column 5 line 8].

As to claims 4 and 16, Annicchiarico discloses that the security policy identifies the portion of outgoing network data and specifies an action to take to mask the portion of outgoing network data [column 4, lines 20-52].

As to claims 5 and 17, Annicchiarico discloses that the security policy further specifies replacement data for the portion of outgoing network data [column 4, lines 20-52]. Annicchiarico discloses the replacement data characteristic of the different operating system [column 4, lines 20-52].

As to claims 6, 18 and 39, Annicchiarico discloses that the security policy further defines the network as untrusted [column 3, lines 40-46].

As to claims 7, 19 and 29, Annicchiarico discloses receiving the security policy through the network [column 3, lines 40-46].

As to claims 8, 20 and 30, Annicchiarico discloses modifying the security policy based on user input [column 3, lines 40-46].

As to claims 9, 21 and 28, Annicchiarico discloses transmitting the portion of outgoing network data unchanged if the network is a trusted network [column 5, lines 29-48].

As to claims 10, 22, 31, 37 and 38, Annicchiarico discloses the method further comprising:

intercepting a portion of incoming network data, as discussed above; and  
sending a false response to the portion of incoming network data to  
impersonate the different operating system in accordance with the security policy  
if the network is an untrusted network [column 5 line 63 to column 6 line 14].

As to claims 11 and 23, the Annicchiarico discloses that the security policy identifies the portion of incoming network data and the false response [column 5 line 63 to column 6 line 14].

As to claims 12, 24 and 32, Annicchiarico discloses that the method is integrated into a firewall that protects the computer [column 5 line 63 to column 6 line 14].

As to claim 13, Annicchiarico et al discloses a computer-readable medium having executable instructions to cause a computer to perform a method comprising:

intercepting a portion of outgoing network data characteristic of the  
operating system [column 3, lines 40-46]; and

masking the portion of outgoing network data to impersonate a different operating system in accordance with a security policy if the network is an untrusted network [column 4, lines 20-52];

wherein masking the portion comprises:

replacing the portion of outgoing network data with data characteristic of the different operating system [column 4, lines 20-52].

As to claim 25, Annicchiarico et al discloses a computerized system comprising:

a processing unit [column 3, lines 25-39];

a memory coupled to the processing unit through a bus [column 3, lines 25-39];

a network interface coupled to the processing unit through the bus and further operable for coupling to a network [column 3, lines 25-39];

an operating system executed from the memory by the processing unit [column 4, lines 20-52]; and

a fingerprint masking process executed from the memory by the processing unit to intercept a portion of outgoing network data characteristic of the operating system when the network interface is coupled to the network [column 3, lines 40-46], and to mask the portion of outgoing network data to impersonate a different operating system in accordance with a security policy if the network is an untrusted network [column 4, lines 20-52];

wherein the fingerprint masking process further causes the processing unit to mask the portion by replacing the portion of outgoing network data with data characteristic of the different operating system [column 4, lines 20-52].

As to claim 33, Annicchiarico et al discloses that the computerized system is a firewall and the fingerprint masking process masks an operating system on a computer coupled to the firewall [column 5 line 63 to column 6 line 14].

As to claim 34, Annicchiarico et al discloses a computer-readable medium having stored thereon an OS fingerprint policy data structure comprising:

a data unit type field containing data representative of an identifier for a type of data unit, wherein information associated with the data unit is characteristic of an operating system [column 4, lines 20-52]; and

an action field containing data representative of an action to be taken to mask the information associated with the data unit identified by the data unit type field [column 4, lines 20-52];

wherein making the information comprises:

replacing the information with information characteristic of a different operating system [column 4, lines 20-52].

As to claim 35, Annicchiarico et al discloses the computer-readable medium further comprising:

a re-fingerprint field containing data representative of an identifier for a field type with the data unit type identified by the data unit type field, and further

containing re-fingerprint data that identifies replacement data for the field identified by the field type [column 5, lines 49-62].

As to claim 36, Annicchiarico et al discloses that the re-fingerprint data is selected from the group consisting of the replacement data and a location for the replacement data [column 5, lines 49-62].

As to claim 40, Annicchiarico et al discloses that the security policy contains data on a plurality of different operating systems for allowing the portion of outgoing network data to impersonate any one of the plurality of different operating systems [column 4, lines 20-52].

As to claim 41, Annicchiarico et al discloses that each of the different operating systems included in the plurality of different operating systems is assigned a specific untrusted network for masking the portion of outgoing data according to the untrusted network [column 4, lines 20-52].

As to claim 42, Annicchiarico et al discloses that the false response is sent if the operating system would normally not respond to the incoming network data [column 9, lines 41-63].




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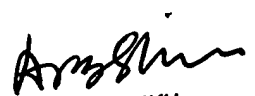
***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aravind K. Moorthy whose telephone number is 571-272-3793. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aravind K Moorthy   
October 12, 2005

  
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